

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DIVISION OF MEDICAL QUALITY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

STEPHEN A. ZARESKY, M.D.
2124 Cambridge
Fairfield, California 94533
Physician's & Surgeon's
Certificate Number G 43829

Respondent.

No. D-4107

OAH No. N-35027

PROPOSED DECISION

On June 7, 1990, in Sacramento, California, Keith A. Levy, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Gail M. Heppell, Deputy Attorney General, represented complainant.

Stephen A. Zaresky, M.D. appeared in person and was not otherwise represented.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Complainant, Kenneth J. Wagstaff, Executive Director of the Medical Board of California, made and filed the Accusation in his official capacity and not otherwise.

II

On or about November 17, 1980, Stephen A. Zaresky, M.D. (hereinafter "respondent") was issued Physician & Surgeon's Certificate Number G 43829 by the Medical Board of California (hereinafter "Board"). At all times pertinent herein, the certificate was and currently is in full force and effect.

III

At all times mentioned herein Hydrocodone, Butalbital, Librium, Valium (Diazepam) and Dalmane (Flurazepam) are dangerous drugs within the meaning of section 4211 of the Business and Professions Code and are controlled substances within the meaning of section 11056 and 11057 of the Health and Safety Code.

IV

At all times mentioned herein anabolic steroids which include, but are not limited to, Testosterone, Testosterone Enanthate, Anadrol, Anavar and Nadrolone Deconoate, are dangerous drugs within the meaning of section 4211 of the Business and Professions Code and are Schedule III controlled substances within the meaning of section 11056 of the Health and Safety Code.

V

During 1987 respondent purchased 37 gallons of Hydrocodone from H.L. Moore, a drug company located in New Briton, Connecticut, as follows:

<u>Date of Invoice</u>	<u>Amount</u>
7/8/87	5 gallons
8/14/87	5 gallons
9/8/87	1 gallon
9/29/87	5 gallons
11/2/87	1 gallon
11/17/87	10 gallons
12/28/87	10 gallons

During 1986 and 1987 respondent purchased dangerous drugs and controlled substances from I.D.E. Interstate, a drug company located in Amityville, New York, as follows:

Date of Invoice

9/5/86

DrugAmount

Dalmane 30 mg.

100

Diazepam 5 mg.

100

Hydrocodone syrup

4 pints

Anavar tablets 2.5 mg.

200

Fluoxymesterone
tablets 10 mg.

200

Testosterone
Enanthate 200 mg/cc

10 cc

Hydrocodone syrup

4 pints

Anadrol

100

Diazepam 5 mg.

100

Hydrocodone syrup

2 pints

Testosterone Enanthate
200 mg/cc

10 cc

Nandrolone Decanoate
100 mg/ml

20 ml

Hydrocodone syrup

4 pints

Diazepam 5 mg.

100

Dalmane 30 mg.

100

Nandrolone Decanoate
100 mg/ml

20 ml

Hydrocodone syrup

2 pints

Testosterone Enanthate
200 mg/cc

10 cc

Dalmane 30 mg.

100

Diazepam 5 mg.

100

Diazepam 10 mg.

100

Hydrocodone syrup

4 pints

Testosterone Enanthate
200 mg/cc

50 cc

9/11/86

9/17/86

9/27/86

10/1/86

10/7/86

10/14/86

10/17/86	Hydrocodone syrup	4 pints
	Anadrol	100
10/27/86	Hydrocodone syrup	4 pints
	Anavar tablets 2.5 mg.	600
11/3/86	Hydrocodone syrup	8 pints
	Nandrolone Decanoate 100 mg/ml	20 ml
	Testosterone Enanthate 200 mg/cc	100 cc
	Anavar tablets 2.5 mg.	500
11/19/86	Diazepam 10 mg.	100
	Hydrocodone syrup	4 pints
	Nandrolone Decanoate 100 mg/ml	20 ml
12/3/86	Dalmane 30 mg.	100
	Diazepam 5 mg.	500
	Hydrocodone syrup	8 pints
	Nandrolone Decanoate 100 mg/ml	20 ml
12/8/86	Hydrocodone syrup	8 pints
	Nandrolone Decanoate 100 mg/ml	20 ml
12/26/86	Hydrocodone syrup	12 pints
12/27/86	Anadrol	100
1/7/87	Dalmane 30 mg.	100
2/26/87	Dalmane 30 mg.	100
	Diazepam 10 mg.	500
	Hydrocodone syrup	12 pints
11/18/87	Testosterone Enanthate 200 mg/cc	100 cc

11/18/87	Nandrolone 2 ml	10
	Anadrol tablets	100
11/23/87	Nandrolone 2 ml	10
	Testosterone Enanthate 200 mg/cc	100 cc
	Anadrol tablets	100

Respondent obtained the above-listed controlled substances and dangerous drugs by misrepresentation, fraud, deception and/or subterfuge in that he purchased these substances for his and his wife's personal use. Respondent contends that his wife ordered the drugs using his license and D.E.A. permit. This contention is not supported by the evidence, but even if his wife did order some of the drugs, she did so either with his knowledge, or he failed to exercise control over his permit and remains fully responsible for all orders made under his license and permit.

VI

On or about October 20, 1987, a repairman went to respondent's house and found him confused and uncoordinated. The repairman called the hospital and subsequently a colleague from work brought him to the emergency room at Kaiser Hospital, San Rafael. In respondent's possession were several pill bottles containing Butalbital 30 mg., Flurazepam 25 mg., Librium 10 mg., and Valium 10 mg. Respondent admitted to the emergency room physician that he had taken four of each of the drugs that morning. A urine drug screen at the time was positive for benzodiazepines and barbiturates. When respondent was brought into the emergency room his speech was slurred and he was quite sleepy.

Respondent admitted to investigators that he ordered and consumed Hydrocodone and used anabolic steroids. In the spring of 1988 respondent went on a drug binge, consuming up to one pint of Hydrocodone a day.

VII

Respondent failed to make and maintain any records of the disposition of drugs he purchased. His contention that the records were destroyed by his estranged wife is not credible.

VIII

On February 10, 1990, in the case of U.S. vs. Stephen Alexander Zaresky, in the United States District Court for the Northern District of California, respondent was convicted of violating Title 21, U.S. code section 843(a)(4)(A) (Furnishing False and Fraudulent Material Information).

IX

Respondent could not substantiate his contention that he has been drug free since November 1988. The evidence establishes that the respondent is a poly-drug addict with a chronic personality disorder who has been in several drug and alcohol treatment programs without making significant progress. Despite his statement that he takes full responsibility for his actions and his drug problems, he spent most of the time testifying about his third wife that he is divorcing, who is bulimic and is either trying to ruin his career or is attempting to end his life. He appeared to want to blame everyone for his problems, starting with his parents who abused him as a child and continuing through three abusive marriages. A number of painful physical injuries and ailments have contributed to his dependence on drugs. The record indicates that the respondent still has a considerable denial process with regards to drugs. The respondent was admitted into the Board's Physicians Diversion Program and as a part of that program was admitted to Merritt-Peralta Institute on April 14, 1988. When he was informed that his urine drug screen on admission to the Institute was positive for benzodiazepines, barbiturates and opiates, he denied that he had taken any sedatives in more than two weeks. Respondent was discharged from the program without completing it on April 25, 1988, for not cooperating in the program, including presenting a urine sample on demand. Consequently, on August 5, 1988, the Board terminated respondent from the Physician's Diversion Program. Respondent left prematurely a drug rehabilitation program at Sierra Vista Hospital after only three days when his father had a sudden cardiac emergency and was near death. When he was admitted he was suffering from depression, opioid dependence and abuse. He attended a rehabilitation program at Mountain Vista Farm from August 21 to September 11, 1988, and from September 24 to October 18, 1988. Respondent continues to see a psychologist two times a month and attends Adult Child of Alcoholic meetings once a week.

Respondent should not practice medicine until it can be verified that he is drug free for a significant period of time and he has undergone psychological testing which verifies he is fit to practice medicine.

DETERMINATION OF ISSUES

I

Cause for discipline of respondent's license for violation of Business and Professions Code sections 2220, 2234, and 2238 and Health and Safety Code sections 11173(a) and Title 21 U.S.C. section 843(a) was established by Finding V.

II

Cause for discipline of respondent's license for violation of Business and Professions Code sections 2220, 2234, 2239(a) and 2238 and Health and Safety Code section 1170 was established by Finding VI.

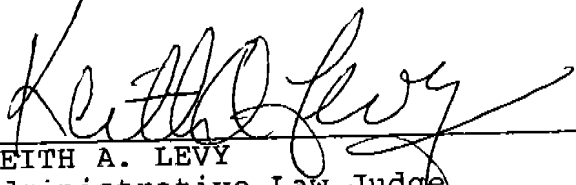
III

Cause for discipline of respondent's license for violation of Business and Professions Code sections 2220, 2234, 2238 and 4232 was established by Findings V, VII and VIII.

ORDER

Physician and Surgeon's Certificate Number G 43829 issued to respondent Stephen A. Zaresky is revoked.

Dated: July 9, 1990



KEITH A. LEVY
Administrative Law Judge
Office of Administrative Hearings

1 JOHN K. VAN DE KAMP, Attorney General
of the State of California
2 GAIL M. HEPPELL,
Deputy Attorney General
3 1515 K Street, Suite 511
P.O. Box 944255
4 Sacramento, California 94244-2550
Telephone: (916) 324-5336

5 Attorneys for Complainant
6
7

8 BEFORE THE
DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10 In the Matter of the Accusation) No. D-4107
11 Against:)
12 STEPHEN A. ZARESKY, M.D.) ACCUSATION
2124 Cambridge)
13 Fairfield, California 94533)
Physician's & Surgeon's)
14 Certificate Number G 43829)
15 Respondent.)

16 Complainant, Kenneth J. Wagstaff, alleges as follows:
17

18 1. He is the Executive Director of the Board of
19 Medical Quality Assurance (hereinafter "board") and makes and
20 files this accusation solely in his official capacity.

21 2. On or about November 17, 1980, respondent Stephen
22 A. Zaresky, M.D. (hereinafter "respondent") was issued physician
23 and surgeon's certificate number G 43829 by the board. At all
24 times pertinent herein, said certificate was and currently is in
25 full force and effect.

26 3. Sections 2220 and 2234 of the Business and
27 Professions Code (hereinafter "code") provide, in pertinent part
that the Division of Medical Quality may take action against the

1 holder of a physician and surgeon's certificate who is guilty of
2 unprofessional conduct.

3 4. Section 2239 subdivision (a) of the code provides,
4 in pertinent part, that the use or prescribing for or
5 administering to himself of any controlled substance constitutes
6 unprofessional conduct.

7 5. Section 2238 of the code provides that a violation
8 of any federal statute or federal regulation or any of the
9 statutes or regulations of this state regulating dangerous drugs
10 or controlled substances constitutes unprofessional conduct.

11 6. Business & Professions Code section 2242 provides
12 that prescribing, dispensing or furnishing dangerous drugs as
13 defined in section 4211 without a good faith prior examination
14 and medical indication therefor, constitutes unprofessional
15 conduct.

16 7. Health & Safety Code section 11154 subdivision (a)
17 provides, in pertinent part that no person except in the regular
18 practice of his or her profession shall knowingly prescribe,
19 administer, dispense or furnish a controlled substance to or for
20 any person who is not under his or her treatment for a pathology
21 or condition.

22 8. Health & Safety Code section 11170 provides that no
23 person shall prescribe, administer or furnish a controlled
24 substance for himself.

25 9. Health and Safety Code section 11173, subdivision
26 (a), provides that no person shall obtain or attempt to obtain
27 controlled substances, or procure or attempt to procure the

1 administration of or prescription for controlled substances, (1)
2 by fraud, deceit, misrepresentation or subterfuge.

3 10. Title 21, section 843, subdivision (a)(3) of the
4 U.S.C. provides that it shall be unlawful for any person
5 knowingly and intentionally to acquire or obtain possession of a
6 controlled substance by misrepresentation, fraud, forgery,
7 deception or subterfuge.

8 11. Section 4232 of the code provides, in pertinent
9 part, that a current inventory (of dangerous drugs) shall be kept
10 by every physician.

11 12. A. At all times mentioned herein Hydrocodone,
12 Butalbital, Librium, Valium, (Diazepam) and Dalmane
13 (Flurazepam) were dangerous drugs within the meaning of
14 section 4211 of the code and were controlled substances
15 within the meaning of section 11056 and 11057 of the Health
16 & Safety Code.

17 B. At all times mentioned herein anabolic
18 steroids which include, but are not limited to,
19 Testosterone, Testosterone enanthate, Anadrol, Anavar, and
20 Nandrolone decanoate, were dangerous drugs within the
21 meaning of section 4211 of the code and were schedule III
22 controlled substances within the meaning of Health & Safety
23 Code section 11056.

24 10. Respondent is subject to disciplinary action
25 pursuant to sections 2220 and 2234 of the code in that respondent
26 is guilty of unprofessional conduct within the meaning of code
27 section 2238 in conjunction with Health and Safety Code section

1 11173 (a) and Title 21 U.S.C. section 843 (a)(3) as follows:

2 A. During 1987 respondent purchased 37 gallons of
3 hydrocodone from H.L. Moore, a drug company located in New
4 Briton, Connecticut, as follows:

5	<u>Date of Invoice</u>	<u>Amount</u>
6	7/8/87	5 gallons
7	8/14/87	5 gallons
8	9/8/87	1 gallon
9	9/29/87	5 gallons
10	11/2/87	1 gallon
11	11/17/87	10 gallons
12	12/28/87	10 gallons

13 B. During 1986 and 1987 respondent purchased
14 dangerous drugs and controlled substances from I.D.E.
15 Interstate, a drug company located in Amityville, New York,
16 as follows:

17	<u>Date of Invoice</u>	<u>Drug</u>	<u>Amount</u>
18	9/5/86	Dalmane 30 mg.	100
19		Diazepam 5 mg.	100
20		Hydrocodone syrup	4 pints
21		Anavar tablets 2.5 mg.	200
22		Fluoxymesterone	
23		tablets 10 mg.	200
24		Testosterone	
		Enanthate 200 mg/cc	10cc
25	9/11/86	Hydrocodone syrup	4 pints
26		Anadrol	100
27	9/17/86	Diazepam 5 mg.	100

<u>Date of Invoice</u>	<u>Drug</u>	<u>Amount</u>
9/17/86	Hydrocodone syrup	2 pints
	Testosterone	
	Enanthate 200 mg/cc	10 cc
	Nandrolone	
	Decanoate 100 mg/ml	20 ml
9/27/86	Hydrocodone syrup	4 pints
	Diazepam 5 mg.	100
	Dalmane 30 mg.	100
	Nandrolone	
	Decanoate 100 mg/ml	20 ml
10/01/86	Hydrocodone syrup	2 pints
	Testosterone	
	Enanthate 200 mg/cc	10 cc
10/07/86	Dalmane 30 mg.	100
	Diazepam 5 mg.	100
	Diazepam 10 mg.	100
10/14/86	Hydrocodone syrup	4 pints
	Testosterone	
	Enanthate 200 mg/cc	50 cc
10/17/86	Hydrocodone syrup	4 pints
	Anadrol	100
10/27/86	Hydrocodone syrup	4 pints
	Anavar tablets 2.5 mg.	600
11/03/86	Hydrocodone syrup	8 pints
	Nandrolone	
	Decanoate 100 mg/ml	20 ml
	Testosterone	
	Enanthate 200 mg/cc	100 cc
	Anavar tablets 2.5 mg.	500
11/19/86	Diazepam 10 mg.	100

<u>Date of Invoice</u>	<u>Drug</u>	<u>Amount</u>
11/19/86	Hydrocodone syrup	4 pints
	Nandrolone Decanoate 100 mg/ml	20 ml
12/03/86	Dalmane 30 mg.	100
	Diazepam 5 mg.	500
	Hydrocodone syrup	8 pints
	Nandrolone Decanoate 100 mg/ml	20 ml
12/08/86	Hydrocodone syrup	8 pints
	Nandrolone Decanoate 100 mg/ml	20 ml
12/26/86	Hydrocodone syrup	12 pints
12/27/86	Anadrol	100
01/07/87	Dalmane 30 mg.	100
02/26/87	Dalmane 30 mg.	100
	Diazepam 10 mg.	500
	Hydrocodone syrup	12 pints
11/18/87	Testosterone Enanthate 200 mg/cc	100 cc
	Nandrolone 2 ml	10
	Anadrol tablets	100
11/23/87	Nandrolone 2 ml	10
	Testosterone Enanthate 200 mg/cc	100 cc
	Anadrol tablets	100

C. Respondent obtained the above-mentioned controlled substances and dangerous drugs by misrepresentation, fraud, deception and/or subterfuge in

1 that he purchased these substances for personal use. These
2 substances were not obtained for a legitimate medical use.

3 11. Respondent is further subject to disciplinary
4 action pursuant to section 2220 and 2234 of the code in that
5 respondent is guilty of unprofessional conduct within the meaning
6 of code section 2239 (a) and code section 2238 in conjunction
7 with Health & Safety Code section 11170 in that he administered
8 to himself controlled substances as follows:

9 A. On or about October 19, 1987, a repairman went
10 to respondent's house and found him confused and
11 uncoordinated. The repairman called the hospital.
12 Respondent was subsequently brought to the emergency room at
13 Kaiser Hospital, San Rafael facility. In respondent's
14 possession were several pill bottles containing Butalbital
15 30 mg., Flurazepam 25mg., Librium 10 mg., and Valium 10mg.
16 Respondent admitted to the emergency room physician that he
17 had taken four pills of each of these drugs that morning.
18 Toxicology tests done indicated that respondent tested
19 positive for Benzodiazepam, Librium and Barbiturate.
20 Respondent's speech was slurred and he was quite sleepy.

21 B. On or about November 22, 1988, respondent was
22 interviewed by the Board of Medical Quality Assurance
23 Investigators Ronald Olson and Lowell Jibben. Respondent
24 admitted that he obtained controlled substances and
25 dangerous drugs from I.D.E. Interstate, and H.L. Moore, in
26 1986 and 1987. These drugs were mailed to his residence.
27 Respondent also admitted to using the controlled substances

1 and dangerous drugs he obtained from these companies. In
2 May 1988, respondent stated that he went on a three (3) week
3 drug binge where he consumed one pint of Hydrocodone a day
4 and eight (8) to ten (10) Dalmane an hour. He also stated
5 that he used anabolic steroids because he is a weight
6 lifter.

7 12. Respondent is further subject to disciplinary
8 action pursuant to sections 2220 and 2234 of the code in that
9 respondent is guilty of unprofessional conduct within the meaning
10 of section 2238 and 4232 as follows:

11 A. Complainant incorporates paragraph 10
12 subparagraphs A and B as if set forth in full.

13 B. Respondent failed to make and maintain any
14 records of the disposition of drugs he purchased.

15 WHEREFORE, complainant prays that the Division of
16 Medical Quality hold a hearing on the matters alleged herein and
17 following said hearing issue a decision:

18 1. Revoking or suspending physician and surgeon's
19 certificate number G-43829 heretofore issued to respondent
20 Stephen A. Zaresky, M.D.

21 2. Respondent is prohibited from supervising
22 physician's assistants.

23 ///

24 ///

25 ///


26 ///

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

3. Taking such other and further action as it deems proper.

DATED: November 8, 1989.


KENNETH J. WAGSTAFF
Executive Director
Board of Medical Quality Assurance
State of California

03573110-SA89AD0651